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ALTS
ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

ORIGINAL

December 10, 2002

Chairman Michael K. Powell
Federal Communications Commission
445 12th Street, S W
Washington, D.C. 20554

Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Commissioner Kathleen **Q.** Abesnathy
Federal Communications Commission
445 12th Street, S.W.
Washington, D C 20554

Commissioner Kevin J. Martin
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Commissioner Jonathan Adelstein
Federal Communications Commission
445 12th Street, S.W
Washington, D C. 20554

Re: *Ex Parte* Communication in CC Docket Nos. 01-338, 96-98, 98-147

Dear Chairman Powell and Commissioners:

Please find attached letters from four representative facilities-based CLECs urging the Commission to retain access to loops and transport as unbundled network elements ("UNEs"). These letters explain the enormous price, customer service and technological benefits that these companies provide to small businesses because of their ability to purchase unbundled transmission facilities from the ILECs. The letters also stress the toll that removal of such facilities from the list of UNEs would have on small business customers.

Respectfully submitted,

John Windhausen, Jr

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NETWORK TELEPHONE

November 21, 2002

Michael K. Powell, Chairman
Kathleen Q. Abemathy, Commissioner
Michael J. Copps, Commissioner
Kevin J. Martin, Commissioner
Jonathan Adelstein, Commissioner
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

RE: *Ex Parte Comments of Network Telephone Corporation In the Mutter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Curriers, CC Docket Nos. 01-338, 96-98 and 98-147*

Dear Commissioners:

Network Telephone (NTC) would like to express concern about the impact the Commission's decisions in the above-referenced docket will have on small businesses. Our concern centers not only around the impact of the decisions on small businesses such as Network Telephone, but also on the effect of the Commission's decisions will have on the 12,000 small business customers served by Network Telephone.

I founded Network Telephone in 1997 because I believed in what the Telecommunications Act of 1996 sought to accomplish – greater choice, lower price, and innovative services for the consuming public. Five years later, NTC and its customers are realizing these objectives. Network Telephone is moving forward with a sound business plan and a solid balance sheet. NTC employs 625 people. Approximately 375 of these employees are at the company's headquarters in Pensacola, Florida. The remaining employees are comprised of our direct sales force and field technicians throughout the eight southeastern states served by NTC.

Although Network Telephone does serve a handful of Top 8 **MSA** markets, the company focuses primarily on Tier 2 and Tier 3 markets. We serve smaller communities such as Hattiesburg, Vicksburg, Laurel, and Meridian, Mississippi; Mobile, Montgomery, Huntsville and Tuscaloosa, Alabama; Alexandria, Monroe, Lake Charles, and Lafayette, Louisiana; and Gainesville and Pensacola. Florida. In some of our 32 markets, NTC is one of the only competing local exchange providers. We bring our direct sales force to these smaller cities, and make a difference in their local economic development.

815 South Palafox **Street.** Pensawla. Florida 32501 . Phone 850-432-4855 . www networktelephone.net

Network Telephone's focus is providing service to the small business community, primarily business customers with between 3 and 15 lines. Our average customer has six telephone lines. NTC brings a much-needed bundle of services to this segment of the market. Our bundle includes local exchange service, long distance service with free minutes of usage, high-speed data service, and web hosting. We provide a value added package that can save the average 6-line business customer more than $100 per month on telephone service. We utilize a direct sales contact for the customer - an account executive knocks on the door, meets the business manager, and directly discusses the telephony needs of the business. Most of the businesses our account executives call on have not seen an ILEC representative in the past several years. Some of the small businesses have never had a personal visit from the ILEC to discuss telecommunications needs and solutions.

The value-added, hands-on approach fills a void for the small business owner. Network Telephone's bundle has been extremely well received by our target market, and we have more than 100,000 lines in service. We are also able to offer single-solution billing to the customer for all his locations and all of his services, a distinct advantage for the small business trying to successfully manage its telecommunications needs.

The success of Network Telephone as a small business itself, and the value and innovative service NTC can bring to its small business customers to help contribute to their success, relies on the continued availability of the unbundled network elements essential to NTC's business plan.

Network Telephone is a facilities-based provider. We have deployed a Lucent 5ESS switch, and 12 digital remote modules (DRMs) which home to the 5E. Our focus is on voice service, and on building our own facilities-based network to provide that service. However, we cannot continue to build our network, or even to serve our existing customers, without the availability of unbundled network elements from the ILEC, at TELRIC pricing.

While Network Telephone advocates continued availability of all UNEs, I would like to comment specifically on several elements that are essential to our ability to survive as a telecommunications provider.

First, Network Telephone must have continued access to "last mile" UNEs from the ILEC. Our service voice and data service is provisioned to the end-user over "last mile" digital loops. The four-wire digital loop, the ADSL loop and the UDC loops are essential to our ability to provide service. We must have continued access to these loops from the ILEC or we cannot reach our end-user customers. There is currently no alternative for reaching the individual small businesses we serve.

Second, Network Telephone needs the ability to continue to purchase interoffice transport as a UNE. NTC's network configuration is similar to some DLECS, but we

use voice over broadband technology, with DSLAMs collocated in BellSouth's central office and NTC-owned switches. Wc utilize thc ILEC interoffice UNEs to connect collocations within a service area to a ccntralizcd collocation.

Network Telephone has virtually no access to service from Competitivc Access Providers (CAPs) due to our configuration and choice of markets. Thc prcscnce of CAPs and fiber-based CLECs diminishes greatly based on the size of the markets. In many of Network Telephone's markets, an alternative transport provider is not available. In those larger markets in which a CAP may have fiber, the fiber does not usually exist on the route we use. With NTC's network configuration, each individual circuit is unique. If an alternate transport provider does not have access to all ILEC ccntral offices in which NTC is collocated, then there is no competitive alternative. Due to capital constraints, the CAPS and fiber-based CLECs do not have a presence in a large number of ILEC central offices.

If the ILECSs were granted relief from the requirement to providc interoffice transport as a UNE, the only alternative available to Network Telephone would be to purchase thc facilities via the ILEC special access services tariff. We would be reliant on higher-cost monopoly service, and the Commission would have effectively removed the valuc of NTCs collocations, in which we have invested considerable dollars under a businccss plan that included interoffice transport UNEs. To change the rules in mid-stream, when no competitivc alternative on a routc-to-route test is available, seriously impairs NTCs ability to providc competitive service and renders much of our collocation investment useless.

The removal of interoffice UNE requirements would have a significant impact on thc ability of small business consumers in small to medium-sized markets to have access to competitive services offerings. If the interoffice UNE requirements are removed, Network Telephone will not have any incentive to expand its footprint and build new collocations due to thc high cost that would be associated with connecting the additional collocations back to centralized collocation within the MSA.

For these reasons, Network Telephone supports a granularity test on a route-specific basis prior to the elimination of any interoffice transport. There must be competitive offerings available on the specific route in question prior to the elimination of the transport UNE.

Third, Network Telephone advocates retaining combinations. EELs provide NTC with the ability to expand our facilities-based footprint without significant capital expenditure, at a time when the capital markets have dried-up for CLECs. And, although NTC is not primarily a UNE-P provider, UNE-P is useful to NTC as a transition strategy, to build a market base prior *to* investing in a switching, and to allow for single-solution billing for small business customers with some locations outside our facilities-based footprint. For these reasons, Network Telephone advocates maintaining EELs and UNE combinations.

Should the Commission eliminate UNE-P combinations for business customers, there would be an immediate and detrimental impact to at least some of the small businesses we serve, whose pricing is based on the availability of UNE-P. If EELs were eliminated, Network Telephone would be unable to continue provide voice and data service to our current business customers served via the EELs combination,

In summary, the Commission holds in its hands the future of small business CLECs such as Network Telephonc, and the competitive advantage, innovative solutions, and hand.-on approach companies such as ours provide to small business end-user customers. It is a charge that cannot be taken **lightly.** Continued access to UNEs at TELRIC prices is essential for the small business segment of the marketplace.

Thank you for your consideration of these issues, and please do not hesitate to contact me if you have any questions.

Sincerely,

/ s /

Kay Russenberger, CEO
Network Telephone Corporation

November 20, 2002

Chairman Powell
Commissioner Abernathy
Commissioner Adelstein
Commissioner Copps
Commissioner Martin
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: CC Docket Nos. 01-338, 96-98 and 98-147

Dear Commissioners

Pursuant to Section 1.1206 (b)(1) of the Commission .. rules, Eschelon Tc..com, Inc. submits the attached written **ex** *parte* in the above-captioned docketed proceedings. This submission is intended to convey the significance of this proceeding to Eschelon as a small business, and to the thousands of very small businesses that we serve using our own facilities in tandem with unbundled network elements that we obtain from RBOCs.

Eschelon Telecom was founded in 1996 to provide small businesses with telecommunications equipment and network services. Initially, Eschelon resold RBOC network services. In 1999, we began raising capital to fund investment in switching facilities and collocations. We currently employ 950 people across seven states. We have deployed six voice and seven data switches and built out over one hundred collocations in twelve second and third tier markets across our western and mid-western states. Today we serve approximately 35,000 small business customers – our average customer subscribes to about four access lines.

Eschelon has been successful selling to small businesses for a number of reasons. We offer our customers network services at approximately 10% less than the RBOC, saving them approximately $10 million annually. Our typical customer does not have a communications specialist on staff We add value to our network services by advising our customers on the sets of services that best match their needs. Because Eschelon also distributes, installs and maintains business telephone systems, we can provide our customers with a complete telecommunications solution. Further, we periodically contact our customers to determine if their needs have changed,

Eschelon distinguishes its customers into those that are "on-net'' and those that are "off-net -- By "on-net'' we mean customers located in wire centers in which we have built a collocation and who we can serve from our own voice and data switches. To serve these customers, we buy a loop from the RBOC to the customer premise, we pay the RBOC to place a jumper that connects the loop to our collocated DLC equipment. We also buy transmission facilities from the RBOC to transport the signals from our collocation to our switch. We also purchase interconnection trunking and tandem switching from the RBOC to link our switch to the RBOC's tandem or end-office switches. In our markets, we have not found alternative suppliers of loops, interconnection trunking, or tandem switching. In a few of our markets, we have been able to obtain interoffice transport from someone other than the RBOC, but at a significantly higher price. However, to provide our customers with reliable service, we insist on having duplicate transport providers wherever possible. Consequently, we are very dependent upon RBOC transport.

Without an ability to buy loops, transport, tandem switching, and interconnection trunking at TELRIC rates, Eschelon would be forced out of business. Our business plan is to serve small, geographically dispersed business customers. We could never obtain the economies of scale that a ubiquitous provider has. Nor can we avail ourselves of the economies of serving concentrated high demand customers, as can those companies who target big businesses or focus on the downtown core. Our "on-net" business is dependent upon UNEs.

Our "off-net" business also plays an integral role in our success. By "off-net'' we mean customers who are located in wire centers in which we have not collocated. These customers we serve using UNE-P. For every one hundred lines we sell, about seventy of them are "on-net" and about thirty are "off-net."

In an important way, our "on-net'' business depends upon our having an "off-net" product set Many of our customers have multiple locations. They require a provider who can serve them at every location. Although Eschelon has built many collocations, we cannot afford to build out a ubiquitous network in each of our markets. To economically justify a collocation, we have to have enough customers in that wire center to repay our investment. In some wire centers, it may just be a matter of time until we have sufficient customers to extend our network. In other wire centers, we may never reach the requisite customer numbers.

Without UNE-P, Eschelon would immediately lose all of its "off-net" customers Our ability to grow a customer base and transition from "off-net" to "on-net" would disappear In addition, we would lose as much as twenty-five to thirty percent of our "on-net" customers because we would not be able to service their "off-net'' locations.

We strongly oppose those who claim that Eschelon could convert its "off-net" UNE-P lines to resale We were in the resale business before we began our facilities build-out and resale is not a viable business. Not only are margins insufficient, but we would be constrained by the RBOC's product offerings which are poorly matched to our own

product sets. Our multi-location customers would be frustrated by lack of a consistent product offering. Similarly, our sales and service efforts would be made more difficult by having to combine the RBOC's product sets with our own

In conclusion, Eschelon is a small business that serves small businesses. We offer our customer's substantial benefits as demonstrated by the fact that we have grown from thirty thousand to over 140,000 access lines since 1999. Eschelon has invested several hundred million dollars in providing small business consumers with a competitive choice for local exchange service Our ability to serve our tens of thousands of customers depends upon the continued availability of **UNEs** and UNE combinations

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November 21, 2002

BY HAND DELIVERY

Chairman Michael K Powell
Commissioner Kathleen Q Abernathy
Commissioner Jonathan S Adelstein
Commissioner Michael J Copps
Commissioner Kevin J Martin

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Ex Parte* Communication in the Matter of Implementation of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket Nos. 01-338, 96-98, and 98-147.

Dear Chairman Powell and Commissioners

DSL net, Inc ("DSLnet") respectfully files this ***Ex Parte*** to urge the Federal Communications Commission ("Commission") to retain, support and strengthen its rules regarding unbundled network elements ("UNEs"). The continued availability **of** reasonably priced UNEs provisioned by the large incumbent telephone companies ("ILECs") is essential for DSLnet to reach and provide service to its customers.

DSLnet, based in New Haven, Connecticut, provides high-speed data communications and Internet access services to small and medium-sized businesses throughout the country In addition to offering high-speed connectivity using symmetric digital subscriber line technology ("SDSL"), DSLnet offers its customers other important value-added enhancements such as web hosting, on-line data back up and recovery services, firewalls, and virtual private networks. With DSLnet's full range of affordable offerings, specifically tailored to meet business needs, DSLnet's small business customers are empowered to compete in the Internet economy on **par** with companies much larger in scale and scope.

DSLnet was founded in 1998, to meet the data communications needs of the "underserved" small and medium-sized business market. DSLnet focused deployment of its high-speed facilities in second and third tier cities - areas that are neither served by

cable providers nor adequately served by large telephone companies. In areas where it has not deployed its own high-speed equipment, DSLnet utilizes the facilities of other carriers. Since its inception in 1998, DSLnet has remained faithful to the core mission of meeting the needs of small businesses. Despite tumultuous business conditions that permeated the telecommunications market in the past year, DSLnet serves a growing base of customers. Today, DSLnet is positioned to serve business customers throughout the country, and on a "facilities-basis" in 200 cities. In many areas where other providers have been forced to discontinue their own offerings, DSLnet has stepped in to serve. DSLnet has gained experience with the complex migration process, and has successfully integrated many of these stranded customer lines over the past year. Most recently DSLnet announced an agreement to acquire the assets and customers of Network Access Solutions. This integration of NAS' customers that are located in nine east coast states from Massachusetts to Virginia is anticipated to occur by the end of this year.

The opportunity for DSLnet to provide its services is in large part due to the market opening laws enacted as part of The Telecommunications Act of 1996 ("the Act"). These laws enable DSLnet to provide its high speed services to customers cost-effectively as the Act requires incumbent telephone companies to lease components of the network to competitive providers at forward-looking or "TELRIC" prices. DSLnet depends on the continued ability to lease these unbundled network elements ("UNEs). Specitically, the UNEs critical to DSLnet's operations are.

Two wire copper loops;
Inter-ofice transport copper loops or facilities;
High capacity copper loops, i e. DS1 loops.

In addition, DSLnet leases "cageless" collocation space in telephone company central offices that is used to place DSLnet's high-speed equipment. The continued availability of these network elements, at low prices, is critical to our business operations. There are simply no cost-effective substitutes for these services These are "bottleneck" facilities, owned by the large telephone companies, paid for historically by telecommunications ratepayers. DSLnet has invested millions of dollars to gain access to these network elements. The continued availability of reasonably priced access to copper wires to reach our customers will ensure that DSLnet can serve the small business market cost effectively.

DSLnet, itself a small business that employs under two hundred people, understands how important it is for small companies to be able to choose among service providers that best meet its business needs; and 2) select from a variety of services and prices for communications services. DSLnet's business is the business customer. DSLnet focuses exclusively on the business customers' data communications needs. DSLnet has developed important value-added services that eliminate any discernable differences for Internet connectivity between the "big" and "smaller" players. This is extremely important in a competitive business marketplace. DSLnet provides small business with this competitive "edge" that's simply not available from either cable

providers located in primarily residential areas, or large lLECs with their eyes on residential community and the largest business market

DSLnet urges the Commission to continue *to* require that critical, bottleneck network facilities be offered to wholesale providers like DSLnet to enable us to reach our customers DSLnet also respectfolly requests that the Commission expedite and conclude its review of unbundling requirements, as the regulatory uncertainty surrounding these issues is troubling to our company and business customers

If there are any further questions concerning DSLnet's needs, I would be glad to discuss or meet with you. In addition, Wendy Bluemling (203/782-7440) who is responsible for DSLnet's regulatory work can be contacted for questions and clarification

Sincerely,

David F. Struwas

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November 21.2002

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Re: *Ex Parte* Communication in CC Docket Nos. 01-338, 96-98, 98-147, 01-318, 01-321, 02-112

Dear Chairman Powell and Commissioners:

As you are aware, many competitive local exchange provider companies also qualify as a small business under the Small Business Administration rules. Cbeyond Communications is such a company. **As** the CEO of a small business that also provides telecommunications services to small businesses, I wanted to articulate the potential impact of the evaluation and ultimate outcome of the proceedings referenced above

Cbeyond Communications is a facilities-based telecommunications provider, founded in November of 1999 and headquartered in Atlanta, Georgia. Cbeyond is currently operational in three markets – Atlanta, Dallas and Denver. **As** a small business, Cbeyond currently employs 360 people across our operating territory.

Cbevond Communications provides an integrated package of local, long distance voice and broadband services to small business customers with as few as five local lines. These customers typically have between 10 and 100 employees and represent small entrepreneurial service based companies. Companies that in any economy, and particularly this economy need the value proposition that Cbeyond's product suite affords them. Cbeyond's goal at the company's inception was to bring the small business market the big business communications tools. Cbeyond's base package of services provides local and long distance voice services as well as dedicated internet access for the same price a customer typically pays for their voice services alone prior to selecting Cbeyond as their service provider. Cbeyond is serving a segment of the market that to date has typically had no choice in its local telecommunications provider and certainly has not been availed of a single source provider for all of their telecommunications needs. **A** chart depicting the Cbeyond's value proposition is attached for your review.

Cbeyond is able to cost effectively provider its customers with these services for two reasons. First, Cbeyond has invested and innovated in order to develop a next generation network architecture to permit us to provide service in the efficient method possible. Second, our business plan is predicated on our ability to interconnect and have access to unbundled high capacity (e g , DSI) local loops and other unbundled network elements as required by Section 251 of the Telecommunications Act of 1996. Continued access to the loops at cost based rates is critical for our business plan. Thus, the outcome of the FCC's review what elements will continued to be required will determine whether small business customers in the markets in which we operate will continue to have access to "big business" tools at a price they can afford.

Respectfully Submitted,

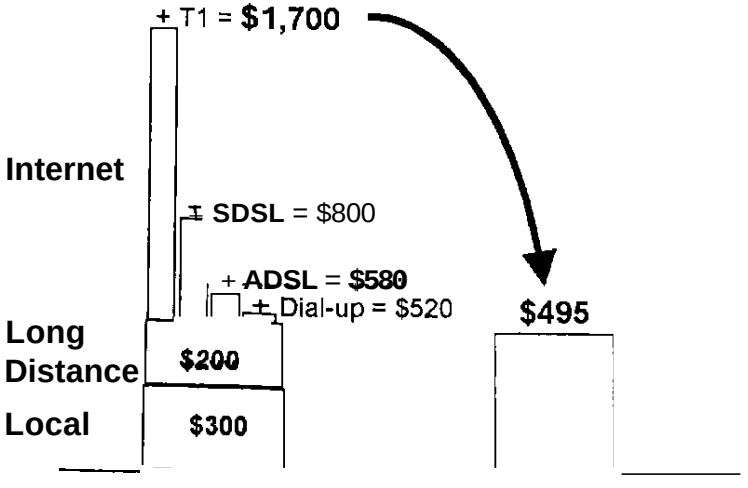
Julia O. Strow
Vice President
Government and Industry Relations

Cbeyond's Disruptive Products

BeyondVoice I *$495 month*

(5 *to 14* lines)

Package Includes:
- **5 voice lines**
- **2,000 LD minutes**
- **Internet Access up to 1.5 Mbps**



BeyondVoice II *$1,295 month*

***(15 to 24* lines)**

Package Includes:
- **15 voice lines**
- **6,000 LD minutes**
- **Internet Access up to 3.0 Mbps**